

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TIMOTHY KING, *et.al.*,
Plaintiffs,

Case No. 20-cv-13134
Hon. Linda V. Parker

v.

GRETCHEN WHITMER, in her official capacity
as Governor of the State of Michigan, *et.al.*,
Defendants,

and

ROBERT DAVIS,
Intervenor Defendant.

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**INTERVENOR DEFENDANT ROBERT DAVIS' EMERGENCY
MOTION TO STRIKE PLAINTIFFS' NOTICE OF VOLUNTARY**

**DISMISSAL WITH RESPECT TO INTERVENING DEFENDANT
ROBERT DAVIS (ECF NO. 92).**

NOW COMES, INTERVENOR DEFENDANT ROBERT DAVIS (hereinafter “Intervenor Defendant Davis”), by and through his attorney, ANDREW A. PATERSON, and for his Emergency Motion to Strike Plaintiffs’ Notice of Voluntary Dismissal With Respect to Intervening Defendant Robert Davis (ECF No. 92), states the following:

I. Concurrence

Pursuant to Local Rule 7.1, prior to filing the instant motion, counsel for Intervenor Defendant Davis sought concurrence from Plaintiffs’ counsel, but concurrence was denied, necessitating the filing of this motion. **(See Email Chain Attached as Exhibit A).**

II. Necessity for Immediate Consideration

It is necessary for the Court to address the merits of Intervenor Defendant Davis’ instant motion on an expedited basis because Plaintiffs’ Notice of Voluntary Dismissal With Respect to Intervening Defendant Robert Davis (ECF No. 92) was improperly filed. The document docketed as ECF No. 92 is clearly **not** a “notice of voluntary dismissal.” Rather, it

is a “motion” for voluntary dismissal that was improperly filed by Plaintiffs’ counsel as a “notice of voluntary dismissal”.

Accordingly, ECF No. 92 should be stricken and Plaintiffs’ counsel should be directed by the Court to properly file the document as a “motion” and not as a “notice of voluntary dismissal”. This is the **second** document that Plaintiffs’ counsel has improperly filed with the Court and upon being notified of the error, Plaintiffs’ counsel has once again refused to correct the error, necessitating the filing of a motion. The Court should sanction Plaintiffs’ counsel for refusing to correct the error that was promptly brought to her attention by Intervening Defendant Robert Davis’ counsel. (**Exhibit A**). Upon being notified of the error, Plaintiffs’ counsel should have promptly withdrawn the improperly filed notice and properly refiled the document as a motion. Instead, Plaintiffs’ counsel has been defiant and has caused counsel for Intervenor Defendant Davis to take time out of his busy schedule to file the present motion.

CONCLUSION

WHEREFORE, for the foregoing reasons, Intervenor Defendant Davis prays that this Honorable Court GRANT his emergency motion to strike Plaintiffs’ notice of voluntary dismissal (ECF No. 92) and order

Plaintiffs to refile the document as a motion for voluntary dismissal and sanction Plaintiffs' counsel for refusing to correct the filing upon being notified by Intervening Defendant Davis' counsel.

Dated: January 20, 2021

Respectfully submitted,

/s/ ANDREW A. PATERSON
ANDREW A. PATERSON (P18690)
Attorney for Intervenor Defendant
Robert Davis
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(248) 568-9712

CERTIFICATE OF SERVICE

I, ANDREW A. PATERSON, certify that forgoing document(s) was filed and served via the Court's electronic case filing and noticing system (ECF) this 20th day of January, 2021, which will automatically send notification of such filing to all attorneys and parties of record registered electronically.

Dated: January 20, 2021

Respectfully submitted,

/s/ ANDREW A. PATERSON
ANDREW A. PATERSON (P18690)
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Re: Concurrence to Strike Improperly Filed Notice of Dismissal

Drew Paterson

Mon 1/18/2021 2:25 PM

To: Stefani Lambert

Cc: Gregory Rohl

Counsel,

There's nothing for the clerk of the court to correct. You must withdraw the improperly filed notice and refile it as a motion.

Drew Paterson

(248) 568-9712

aap43@outlook.com

From: Stefanie Lambert <attorneystefanielambert@gmail.com>

Sent: Monday, January 18, 2021 2:15 PM

To: Drew Paterson <aap43@outlook.com>

Cc: Gregory Rohl <gregoryrohl@yahoo.com>

Subject: Re: Concurrence to Strike Improperly Filed Notice of Dismissal

Counsel,

I called the Clerk's office to correct any potential filing error. The office is closed today for MLK day.

I'll take care of it first thing tomorrow morning.

Best regards,

Stefanie Lambert Junttila

On Mon, Jan 18, 2021 at 1:40 PM Drew Paterson <aap43@outlook.com> wrote:

To: Stefani Lambert; Gregory Rohl

Counsel,

Today, you improperly filed a motion as a notice of dismissal. Please Immediately withdraw the improperly filed notice of dismissal and refile the document as a motion for voluntary dismissal. If the improperly filed notice is not withdrawn by 5pm today I will proceed with filing a motion to strike the notice.

Drew Paterson

(248) 568-9712

aap43@outlook.com

